

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In re Application of)	
)	
CALVARY CHAPEL OF TWIN FALLS, INC.)	Facility ID No.89823
)	
For Construction Permit for a New Noncommercial)	File No. BPFT-19980204TA
Educational FM Translator Station in Nampa, Idaho)	

MEMORANDUM OPINION AND ORDER

Adopted: November 4, 2003

Released: December 2, 2003

By the Commission:

1. The Commission has under consideration an application for review filed on December 18, 2000, by Southern Idaho Corporation of Seventh-day Adventists ("SIC"). SIC seeks review of the November 14, 2000, staff action denying its petition for reconsideration of the grant of an application by Calvary Chapel of Twin Falls, Inc. ("CCTF") to construct a new noncommercial educational ("NCE") FM translator station¹ at Nampa, Idaho. CCTF filed an opposition on December 29, 2000. For the reasons set forth below, we deny SIC's application for review.

Background

2. On February 4, 1998, CCTF filed an application for a construction permit to build a new NCE FM translator station at Nampa, Idaho. On July 13, 1998, SIC filed a petition to deny the application, alleging that CCTF had not demonstrated its financial qualifications to construct and operate the proposed facility. Specifically, SIC maintained that the Commission "must question the validity" of CCTF's financial certification due to the pendency of a large number of applications filed by CCTF for new translator stations and an application for a new full-service noncommercial FM station.² In response, CCTF stated that it had the funds necessary to construct each of the stations for which it had applied, noting that it had already constructed over one hundred FM translator stations.

3. On February 15, 2000, the staff denied SIC's petition to deny, stating that, while the Commission has indicated that the staff may question the validity of a commercial full-service station applicant's financial qualifications if that applicant has multiple broadcast applications pending, it did not direct that the staff do so in all cases. The staff found that SIC had failed to adduce any probative evidence putting in issue CCTF's financial qualifications. Based on SIC's wholly speculative allegations and CCTF's "proven track record" of station construction, the staff concluded that further inquiry into CCTF's financial qualifications was unwarranted.

¹ The station's call sign is K204DV.

² SIC cited *George Edward Gunter*, 104 F.C.C.2d 1363 (Rev. Bd. 1986).

4. SIC petitioned for reconsideration, maintaining that the staff erred in concluding that it was not required to question the validity of CCTF's financial certification in light of CCTF's pending multiple applications. In denying SIC's petition for reconsideration, the staff held that the Commission's 1987 *Public Notice* regarding financial certifications by broadcast applicants accorded the staff the discretion -- but not the obligation -- to question whether an applicant with multiple pending applications is financially qualified.³ In addition, the staff again referred to CCTF's "long record" of timely constructing authorized facilities and SIC's failure to provide any documentation to support its challenge of CCTF's financial qualifications.

5. In its application for review, SIC maintains that the staff's interpretation of *Certification of Financial Qualifications* requirements "is at odds" with rulings by administrative law judges and the Review Board in cases such as *Gunter, supra*, and *Modesto Broadcast Group*.⁴ These adjudicatory cases establish a policy, SIC argues, "in favor of comprehensive audits of multiple filers" because an applicant with many applications "must" be able to demonstrate that it is financially qualified as to all pending applications. SIC concludes that the Commission should "routinely audit the claimed financial qualifications of any applicant with a substantial number of simultaneously pending applications."

6. *Discussion.* SIC's argument that *Gunter* and *Modesto Broadcast Group* are in conflict with *Certification of Financial Qualifications* is without merit. Those cases, the latter of which cites *Certification of Financial Qualifications*, do not support the principle that an examination of an applicant's financial certification is mandatory when an applicant has multiple pending applications. We reject SIC's patent misreading of these cases.⁵ Rather, they merely establish that the staff may seek additional financial data based on the pendency of a large number of broadcast applications.

7. In this case the staff reasonably concluded that a financial qualifications inquiry was unwarranted. Unlike the applicants in *Gunter* and *Modesto*, CCTF has a proven record of timely constructing a network of, by its count, over 280 authorized facilities.⁶ SIC has presented no information, beyond mere conjecture, to put at issue CCTF's financial qualifications. Based on the foregoing, we find that SIC has failed to raise a substantial or material question of fact to warrant an examination of CCTF's financial certification, and we affirm the staff's conclusion that the grant of CCTF's application is consistent with the public interest, convenience, and necessity.

³ *Public Notice, Certification of Financial Qualifications by Applicants for Broadcast Station Construction Permits*, 2 FCC Rcd 2122, 2123 (1987) ("*Certification of Financial Qualifications*") ("in cases where an applicant has a large number of pending broadcast applications, the staff *may* question the validity of the applicant's financial qualifications") (emphasis supplied).

⁴ 5 FCC Rcd 4674 (1990).

⁵ In March, 2001, the Commission modified Form 349, Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station and, *inter alia*, deleted the financial certification.

⁶ See page 3, Opposition to Application for Review. Compare *Modesto, supra*, 5 FCC Rcd at 4675, in which the Review Board observed that the presiding judge, in specifying a financial issue, "[knew] nothing about the applicant or her financial condition."

8. ACCORDINGLY, IT IS ORDERED, That the Southern Idaho Corporation of Seventh-day Adventists application for review IS HEREBY DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary